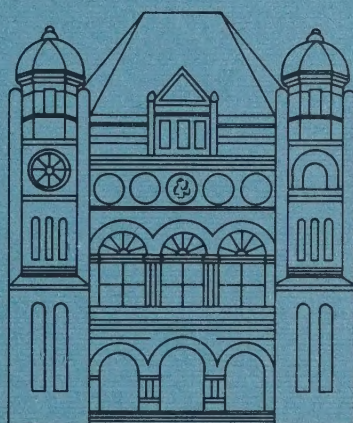


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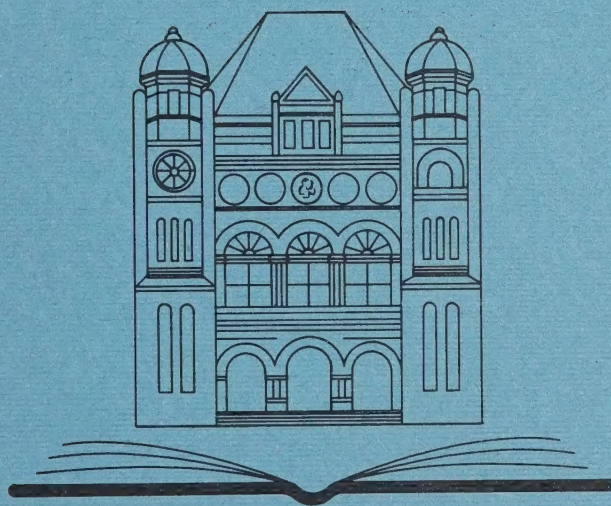
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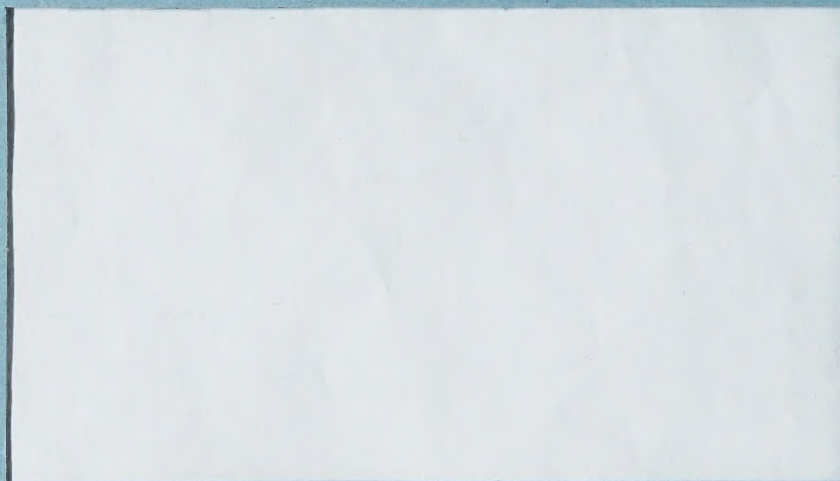
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**WHEN ONTARIO ACTS
COME INTO FORCE**

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Introduction

A distinction must be drawn between the "passage of legislation" and its "coming into force". A Bill is considered to be "passed" by the Legislative Assembly once it has received three readings; upon receiving Royal Assent, the "passed" Bill becomes an Act. An Act, however, may or may not "come into force" at this stage (assent). Rather, what is determinative is the Act itself. The following question must be asked: "Is there some provision in the legislation specifying a date of commencement?" If not, the Statutes Act,¹ as discussed below, will apply.

Effective Dates

In Ontario, an Act may take effect in different ways:

1. ROYAL ASSENT. A section in the legislation states that "this Act comes into force on the day it receives Royal Assent."
2. FIXED DATE (RETROACTIVE). A date prior to the date of assent is named. Thus, there is the phrase - "This Act shall be deemed to have come into force on the ___ day of _____, 19 __." (emphasis added) Various sections may be deemed in force at different times.
3. FIXED DATE (PROSPECTIVE). A date subsequent to the date of assent is specified. The expression - "this Act comes into force on the ___ day of _____, 19 __" - is generally used. Similar to the retroactive approach, the entire Act may not take effect at the same time; certain dates may apply to certain sections.

It is possible that the fixed commencement date may depend upon the occurrence of a particular event. For example, the Representation Act which divided the Province into 125 electoral districts stated that:

This Act comes into force and has effect on the day after the day upon which the present Legislature is dissolved or ended by the effluxion of time.²

4. PROCLAMATION. The Act may declare that the Lieutenant Governor must proclaim it into force.

The proclamation procedure is best illustrated by tracing the history of a particular Act. If we look, for instance, at the Grain Elevator Storage Act, 1983³ (Royal Assent, June 21, 1983), we find that s. 28 reads:

This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Under the Interpretation Act, the above proclamation "is to be understood to be a proclamation issued under an order of the Lieutenant Governor in Council."⁴ This understanding applies wherever the Lieutenant Governor is authorized to do any Act by proclamation. (The Interpretation Act defines "Lieutenant Governor in Council", in part, as the Lieutenant Governor, acting by and with the advice of the Executive Council.⁵)

On June 27, 1984, the Lieutenant Governor in Council made an order respecting the Grain Elevator Storage Act, 1983. The Order in Council called for a proclamation naming July 1, 1984, as the day upon which the Act would come into force. (See next page for a copy of O.C. 1749/84.)

The actual proclamation (reproduced on page 4) was also issued on June 27, 1984; it was published in The Ontario Gazette on July 14, 1984, pursuant to s. 2 of the Official Notices Publication Act.⁶ That section stipulates that:

Unless another mode of publication is authorized by law, there shall be published in The Ontario Gazette,

- (a) all proclamations issued by the Lieutenant Governor;

...

It should be noted that, although the Grain Elevator Storage Act, 1983 came into force on July 1, 1984, the proclamation to that effect was not published until July 14th.



Ontario
Executive Council

Order in Council

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that

a Proclamation be issued naming Sunday, the first day of July, One Thousand Nine Hundred and Eighty-four, as the day upon which an Act intituled the "Grain Elevator Storage Act, 1983", being Chapter 40 of the Statutes of Ontario passed at the Third Session of the Thirty-second Legislature of Ontario, convened on the Eighteenth day of April, One Thousand Nine Hundred and Eighty-three, shall come into force.

Recommended

Dennis Simbrell
Minister of Agriculture
and Food

Concurred

George H. W. Cay
Chairman

Approved and Ordered June 27, 1984
Date

John B. L. L.

Lieutenant Governor



The Ontario Gazette

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TORONTO, SATURDAY, JULY 14th, 1984

Proclamations

(Great Seal of Ontario) JOHN B. AIRD
PROVINCE OF ONTARIO

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

TO ALL TO WHOM THESE PRESENTS SHALL COME,

GREETING:

PROCLAMATION

WHEREAS by an Act passed at the Third Session of the Thirty-second Legislature of Ontario convened on the eighteenth day of April, 1983 intituled "The Grain Elevator Storage Act, 1983", being Chapter 40 of the Statutes of Ontario, it is enacted thereof that the said Act shall come into force on a day to be named by Our Lieutenant Governor by his Proclamation;

AND WHEREAS it has appeared expedient that a Proclamation should now issue bringing the said Act into force;

NOW THEREFORE KNOW YE that, having taken the premises into Our Royal consideration, We, by and with the advice of Our Executive Council of Ontario and in the exercise of the power in US vested in this behalf by the said Act or otherwise howsoever, Do, by this Our Royal PROCLAMATION hereby Name Sunday, the first day of July, 1984 as the day upon which the said Act intituled "The Grain Elevator Storage Act, 1983", being Chapter 40 of the Statutes of Ontario shall come into force.

OF ALL WHICH PREMISES all Our loving subjects and all others whom it doth or may in anywise concern are hereby required to take notice and govern themselves accordingly.

IN TESTIMONY WHEREOF We have caused these Our Letters to be made patent and the Great Seal of Our Province of Ontario to be hereunto affixed.

WITNESS:

THE HONOURABLE JOHN BLACK AIRD. An Officer of the Order of Canada, One of Her Majesty's Counsel Learned in the Law, Bachelor of Arts, Doctor of Laws, LIEUTENANT GOVERNOR OF OUR PROVINCE OF ONTARIO,

at Our City of Toronto in Our said Province this twenty-seventh day of June, in the year of Our Lord one thousand nine hundred and eighty-four and in the thirty-third year of Our Reign.

BY COMMAND

GEORGE ASHE,
(5002) 28 Minister of Government Services.

(Great Seal of Ontario) JOHN B. AIRD
PROVINCE OF ONTARIO

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

TO ALL TO WHOM THESE PRESENTS SHALL COME,

GREETING:

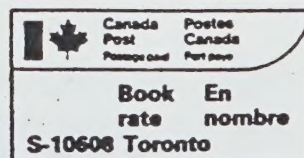
PROCLAMATION

WHEREAS by an Act passed at the Third Session of the Thirty-second Legislature of Ontario convened on the eighteenth day of April, 1983 intituled "The Immunization of School Pupils Amendment Act, 1983", Statutes of Ontario, 1983, Chapter 76 it is enacted thereof that the said Act shall come into force on a day to be named by Our Lieutenant Governor by his Proclamation;

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On a purely theoretical level, there was no requirement that all sections of the Act be proclaimed in force at the same time. If an Act provides that it is to come into force on a day to be named by proclamation, "proclamations may be issued at different times as to any part or parts or portion or portions or section or sections"⁷

5. HYBRID. Two or more of methods '1' - '4' may be incorporated in the same Act. For example, the commencement provision in the Highway Traffic Amendment Act, 1984 (Royal Assent, June 13, 1984) states that:

- 22.- (1) This Act, except subsections 3(1) and(2), section 4 and sections 9 to 18 and 21, comes into force on the day it receives Royal Assent.
- (2) Subsections 3(1) and(2), section 4 and sections 9 to 18 come into force on a day to be named by proclamation of the Lieutenant Governor.
- (3) Section 21 comes into force on the 1st day of January, 1985.

6. SILENCE. If an Act is silent as to when it comes into force, the Statutes Act applies. It holds that, as a general rule, "unless otherwise provided therein," every Act takes effect on the 60th day after the end of the session at which it was passed. In their entirety, the relevant subsections read:

- 5.- (1) Unless otherwise provided therein, every Act comes into force and takes effect on the sixtieth day after the prorogation of the session of the Legislature at which it was passed or on the sixtieth day after the day of signification,⁸ whichever is the later date.
- (2) Where a session of the Legislature is ended by the dissolution of the Legislature, the date of the dissolution shall for the purposes of this section be deemed to be the date of prorogation.

Ontario Legislature
32nd Parliament, 4th Session

Some of the commencement methods described above are adopted more frequently than others. During the 4th session of the 32nd Parliament (as of September 30, 1984), the Legislative Assembly passed 42 public bills. Sixteen of these bills (38.1 percent) came into force on Royal Assent. The breakdown of the remaining bills is as follows:

<u>"In Force" Provision</u>	<u>Number of Bills</u>	<u>Percentage of Total Bills</u>
Proclamation	11	26.2
Fixed Date (retroactive)	9	21.4
Hybrid	5	11.9
Fixed Date (prospective)	1	2.4

Every bill contained a commencement provision. Thus, s. 5 of the Statutes Act did not have to be invoked.

Footnotes

¹ R.S.O. 1980, c. 483.

² Representation Act, 1975, S.O. 1975, c. 13, s. 10.

³ S.O. 1983, c. 40.

⁴ R.S.O. 1980, c. 219, s. 20.

⁵ *Ibid.*, s. 30, para. 15.

⁶ R.S.O. 1980, c. 323.

⁷ Statutes Act, R.S.O. 1980, c. 483, s. 5 (3).

⁸ "Signification" can occur when a bill is "reserved". The right of reserve refers to the Lieutenant Governor's power not to approve a bill in order to reserve it for the assent of the Governor General. If the bill has been laid before the Governor General in Council and the Governor General has assented thereto, the Lieutenant Governor "signifies" that those steps have been taken. Signification is shown either by speech, message to the Legislative Assembly, or by proclamation. See Constitution Act, 1867 (formerly, British North America Act, 1867), 30-31 Vict., c.3 (U.K.), ss. 55-57 and 90; Statutes Act, R.S.O. 1980, c. 483, s. 4.

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